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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,232	05/23/2000	Lundy Lewis	C0441/7166 (TAH)	3633

34705 7590 04/11/2003

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EXAMINER

ENGLAND, DAVID E

ART UNIT	PAPER NUMBER
2143	13

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/577,232	LEWIS, LUNDY
Examiner	Art Unit	
David E. England	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 January 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-6 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6/7/03 .                    6) Other:

## DETAILED ACTION

1. Claims 1 – 6 are presented for examination.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of a genetic algorithm is not specified in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The term "classical" in claim 3 is a relative term which renders the claim indefinite. The term "classical" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 2, 4, 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunter U.S. Patent No. 6449603.

8. Referencing claim 1, Hunter teaches a method of providing service level management, wherein a service is composed of network components and the service affects operation of a business operation, the method comprising:

9. collecting data on component parameters for the network components, (e.g. col. 1, line 9 – col. 2, line 64 & col. 7, line 60 – col. 8, line 48);

10. selecting one component parameter as a service parameter, (e.g. col. 1, line 9 – col. 2, line 64 & col. 7, line 60 – col. 8, line 48); and

11. utilizing algorithms to determine how a service parameter is influenced by the other component parameters, (e.g. col. 1, line 9 – col. 2, line 64 & col. 7, line 60 – col. 8, line 48).

12. Referencing claim 2, Hunter teaches the determined influence is represented in one or more of:

13. decision tree;

14. propositional statement;

15. quantified statement;

16. weighted listing;

17. graph, (e.g. col. 1, line 9 – col. 2, line 64 & col. 7, line 60 – col. 8, line 48).

18. Referencing claim 4, Hunter teaches the determined influence is used in providing service level management, (e.g. col. 1, line 9 – col. 2, line 64 & col. 7, line 60 – col. 8, line 48).
19. Referencing claim 5, Hunter teaches the determined influence is used by a network component monitoring agent of a network management system, (e.g. col. 1, line 9 – col. 2, line 64 & col. 7, line 60 – col. 8, line 48).

*Claim Rejections - 35 USC § 103*

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
21. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (6449603) in view of Sassin et al. (6456619) (hereinafter Sassin).
22. As per claim 3, Hunter teaches the algorithms include:
  - neural network, (e.g. col. 1, line 9 – col. 2, line 64), machine learning, (e.g. col. 1, line 9 – col. 2, line 64), genetic, (e.g. col. 1, line 9 – col. 2, line 64), and classical statistical methods, (e.g. col. 1, line 9 – col. 2, line 64). Hunter does not specifically teach data mining;
24. ID3 derivative (iterative dichotomizing third). Sassin teaches teach data mining, (e.g. col. 8, line 45 – col. 9, line 4);

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25. ID3 derivative (iterative dichotomizing third), (e.g. col. 8, line 45 – col. 9, line 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Sassin with Hunter because it would be more efficient for a system to utilize different algorithms when there are one or more determining influences in the system.

26. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (6449603) in view of Gai (6167445).

27. As per claim 6, Hunter teaches the service parameter is selected from the group consisting of:

28. response time, (e.g. col. 6, line 50 – col. 7, line 20);

29. performance, (e.g. col. 1, line 9 – col. 2, line 64 & col. 6, line 50 – col. 8, line 48); and

30. configuration, (e.g. col. 1, line 9 – col. 2, line 64 & col. 6, line 50 – col. 8, line 48). Hunter does not specifically teach traffic congestion;

31. availability;

32. reliability;

33. security. Gai teaches traffic congestion, (e.g. col. 3, line 61 – col. 5, line 10)

34. availability, (e.g. col. 5, lines 10 – 50);

35. reliability, (e.g. col. 6, line 27 – col. 7, line 10);

36. security, (e.g. col. 3, line 61 – col. 4, line 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Gai with Hunter because it would be more efficient when a system is gathering data about network connection to utilize parameters that can be monitored and configured to work more efficiently or to repair any errors that could occur in the system that is being monitored.

*Conclusion*

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37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
38. a. Johnson U.S. Patent No. 6112301 discloses System and method for customizing an operating system.
39. b. Shwartz et al. U.S. Patent No. 5197005 discloses Database retrieval system having a natural language interface.
40. c. Marchisio U.S. Patent No. 6510406 discloses Inverse inference engine for high performance web search.
41. d. Turney U.S. Patent No. 6470307 discloses Method and apparatus for automatically identifying keywords within a document.
42. e. Adriaans et al. U.S. Patent No. 6311175 discloses System and method for generating performance models of complex information technology systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are none for regular communications and none for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is none.

David E. England  
Examiner  
Art Unit 2143

De *DE*  
April 6, 2003

*DAVID WILEY*  
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